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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**SUMMONS FOR JUDGMENT NO. 1055 OF 2002.
IN
SUMMARY SUIT NO.7102 OF 1999.**

Hab Pharmaceutical & Research Ltd.

..Plaintiff.

VERSUS.

Raman Chandak & Ors.

..Defendants.

Mr. O. S. Kutty with N. K. Sharma & R. U. Singh
Advocate for the plaintiffs.

Mr.A.G.Damle Advocate for the defendant Nos. 4 & 5.

Coram: V.M.KANADE, J.

Date: August 23, 2004.

P.C.:

1. Heard the learned counsel appearing on behalf of the plaintiff. None appears on behalf of the defendant No.3 - firm, though they are served. Mr. Damle appears on behalf of the defendant Nos. 4 & 5. The defendant Nos. 1,2,5 & 6 have been deleted by the plaintiff.

2. The plaintiff has filed the suit on the basis of the goods which were sent and delivered on the basis of various bills for total amount of Rs.3,59,000/-. The plaintiff is claiming a decree for an amount of Rs.1,12,172/- being principal amount with interest at the

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rate of 12% p.a. from the date of the filing of the suit

till payment and/or realisation along with cost.

3. The defendant Nos. 4 & 5 have filed their replies in which they have stated that the defendant No.3 not being registered, the present suit is not maintainable. It is further stated that the suit firm has not been dissolved till today and only a memorandum of understanding has been arrived at between the parties. According to the defendant Nos. 4 & 5, liability has not been admitted. In paragraph 7 of the reply it is stated that the respondent No.3 received goods, however the goods were not of the quality and quantity as claimed by the plaintiff. In my view, the plaintiff in any case is entitled for the decree as against the defendant No.3. Suit is decreed against defendant No.3 in terms of the prayer clause. Conditional leave to defend is granted in favour of the defendant Nos. 4 & 5 on their depositing 50% of the decretal amount within 12 weeks from today.

Summons for judgment is disposed of in the above terms.

(V.M.KANADE,J.)

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